

FISCAL NOTE

Bill #: HB0390

Title: Civil false claims act

Primary Sponsor: Gallik, D

Status: As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

	<u>FY 2004</u> <u>Difference</u>	<u>FY 2005</u> <u>Difference</u>
Expenditures:		
General Fund	\$0	\$0
Revenue:		
General Fund	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

- | | |
|---|--|
| <input type="checkbox"/> Significant Local Gov. Impact | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached | <input type="checkbox"/> Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

Department of Fish, Wildlife, and Parks

1. Very few false claims have been filed against FWP.
2. Passage of this bill would discourage people from filing false claims.
3. If a claim is proven false and FWP prevails, damages recovered would cover any costs incurred.

TECHNICAL NOTES:

Department of Justice

1. It is impossible to estimate the fiscal impact that HB 390 may have because there is no way to predict with any certainty the number of claims that may be filed, the merits of such claims and whether or not a government attorney would prosecute such claims.
2. HB 390 appears to overlap with the duties of the Legislative Auditors Office set forth in 5-13-304 and -311, MCA. The bill also potentially overlaps with the duty of the Attorney General set forth in 5-13-310, MCA, to prosecute public offenses involving a state agency.
3. Money recovered as a result of action taken under 5-13-311, MCA, (for fraud, waste, and abuse) must be deposited in the general fund. The Legislative Auditor receives calls on an 800-telephone number and refers any possible case to court, where the money would be collected. Although HB 390 could divert money from the general fund to private citizens, any amounts collected to date are inconsequential.

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(continued)

4. The recovery percentages for private citizens under HB 390 would be significantly higher than the recovery percentage in the federal False Claims Act, which is capped at 30 percent.

Department of Natural Resources and Conservation

5. HB 390 would conflict with the Department of Natural Resources and Conservation (DNRC) management of agricultural, grazing, timber, commercial and mineral leases. The DNRC currently conducts audit reviews with field staff pursuant to a joint agreement with the Department of Revenue. Private lawsuits could subject surface and mineral lessees to legal actions that differ from or conflict with established lease management criteria, and could result in diverting money from the school trust fund in contradiction to Article X, Section 11, of the Montana Constitution.